Supreme Court, U.S.
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No. 99-612

IN THE

# Supreme Court of the United States

WYSONG LASER COMPANY, INC. and
WYSONG AND MILES COMPANY,

*Petitioners,*

*v.*

VIDIMOS, INCORPORATED,

*Respondent.*

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

## REPLY BRIEF FOR PETITIONERS

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Pursuant to Supreme Court Rule 15(b), Petitioners, Wysong Laser Company, Inc. and Wysong and Miles Company, respectfully submit this Reply Brief addressed to a new point raised in Respondent's Brief in Opposition.

In section "B.1" on page 1 of Respondent's Brief in Opposition, Respondent asserts:

> The Petition says that Lackey's testimony was erroneously excluded from evidence. However, Petitioner did not appeal those evidentiary rulings.

To the contrary, Petitioners did appeal those evidentiary rulings. Petitioners argued to the Seventh Circuit Court of Appeals in their Appellants' Brief that "the trial court improperly excluded extrinsic parol evidence of the parties' intentions" and that the trial court improperly excluded the Lackey testimony (p. 26 of Appellants' Brief). Moreover in connection with the second appeal in this matter to the Seventh Circuit (which resulted in what was referred to in the Petition as the 1999 Decision), Petitioners submitted their Appellants' Appendix which contained: (i) transcription of discussion of counsel and the trial court's ruling on the parol evidence issues relating to the Lackey testimony (pp. A-132 to A-155 of Appellants' Appendix); (ii) transcription of Petitioners' clarification of its offer of proof relating to the Lackey testimony (pp. A-212 to A-213 of Appellants' Appendix); and (iii) the Affidavit of L.C. Lackey submitted by Petitioners as an offer of proof (pp. A-107 to A-128 of Appellants' Appendix).

Therefore, unless Respondent is hiding behind this erroneous argument to avoid consideration of the critical Lackey testimony on the merits, it is inconceivable that Respondent would contend that Petitioners did not appeal the evidentiary rulings pertaining to the Lackey testimony.

## CONCLUSION

In accordance with the Petition for a Writ of Certiorari and this Reply Brief, Petitioners respectfully request that their Petition for Writ of Certiorari be granted.

Respectfully submitted,

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